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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--------------------------------------------------------------------------------|
| Proceeding | 91210876 |
| Party | Defendant Donald Askew Jr. |
| Correspondence Address | DONALD ASKEW JR 4045 BROMPTON RD MEMPHIS, TN 38118-6718 UNITED STATES |
| Submission | Answer |
| Filer's Name | Samuel Rodriguez III |
| Filer's e-mail | rodriguezadamslaw@gmail.com |
| Signature | /Samuel Rodriguez III/ |
| Date | 08/12/2013 |
| Attachments | Donald Askew- Notice of Opposition Answer.pdf(578120 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | | |
|-----------------------------------|---|------------------------------|
| E.I. DU PONT DE NEMOURS AND |) | |
| COMPANY, a Delaware corporation, |) | |
| |) | |
| |) | In the matter of Application |
| |) | Serial No. 76/709,934 |
| Opposer, |) | Mark: TEFLON DON |
| |) | |
| v. |) | |
| |) | |
| |) | |
| DONALD ASKEW, JR., an individual, |) | Opposition No. 91210876 |
| |) | |
| |) | |
| Applicant, |) | |

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, Donald Askew, Jr. AKA “Teflon Don,” an individual, hereby files his Answer to the Notice of Opposition filed in opposition to Applicant’s trademark application under Serial Number 76/709,934.

FIRST DEFENSE

Answering the allegations contained in the numbered paragraphs of the Notice of Opposition, Applicant avers as follows.

1. Applicant admits the allegations set forth in Paragraph 1 of the Notice of Opposition. However, such allegations are irrelevant to the issues in this cause and offer no support for Opposer’s stated position.

2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition. However, such allegations are irrelevant to the issues in this cause and offer no support for Opposer’s stated position

3. Applicant admits the allegations set forth in Paragraph 3 of the Notice of Opposition. However, such allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition. However, such allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

5. Applicant admits the allegations set forth in Paragraph 5 of the Notice of Opposition. However, such allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

6. Applicant admits "The TEFLON® mark is used in connection with industrial additives, coatings, films and resins." However, Opposer's use of the mark, as described in paragraph 6 of the Notice of Opposition is irrelevant to the issues in this cause and offer no support for Opposer's stated position.

7. Applicant admits that PTFE is used in many ways such as are described in Paragraph 7 of the Notice of Opposition. However, to the extent that the allegations in paragraph 7 allege, aver, suggest or imply that the TEFLON® mark is highly visible and is widely displayed on many of the products that contain PTFE as an inducement for the purchase of such products, the allegation is expressly denied.

8. Applicant lacks sufficient knowledge to confirm or deny the allegations set forth in Paragraph 8 of the Notice of Opposition but if an answer is deemed necessary, then the allegations are denied for lack of sufficient information to justify a reasonable belief. More importantly, the allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

9. Applicant lacks sufficient knowledge to confirm or deny the allegations set forth in Paragraph 9 of the Notice of Opposition but if an answer is deemed necessary, then the allegations are denied for lack of sufficient information to justify a reasonable belief. More importantly, the allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

10. Applicant lacks sufficient knowledge to confirm or deny the allegations set forth in Paragraph 10 of the Notice of Opposition but if an answer is deemed necessary, then the allegations are denied for lack of sufficient information to justify a reasonable belief. Moreover, such allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition. The cases cited in Paragraph 11 are distinguishable from the instant case and Opposer's allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

12. Applicant expressly denies the prior rights claimed by Opposer in paragraph 12 of the Notice of Opposition and asserts that Applicant's filing of Application Serial No. 76/709,934 was proper.

13. Applicant admits the allegations set forth in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition. Moreover, the allegations are irrelevant to the issues in this cause and offer no support for Opposer's stated position.

15. Applicant admits the allegations of Paragraph 15 of the Notice of Opposition except to state that he expressly denies that the word “TEFLON” is entitled to any of the protections afforded to “coined or invented terms.”

16. The case cited in paragraph 16 of the Notice of Opposition is a written document and is the best evidence of focus, scope and purpose of its holding. Moreover, the case is distinguishable from the instant case and offer’s no support for Opposer’s stated position. Applicant denies the remaining allegations set forth in Paragraph 16 of the Notice of Opposition.

17. Applicant expressly denies the allegations set forth in Paragraph 17 of the Notice of Opposition.

18. The case cited in paragraph 18 of the Notice of Opposition is a written document and is the best evidence of focus, scope and purpose of its holding. Moreover, the case is distinguishable from the instant case and offers no support for Opposer’s stated position. Applicant denies the remaining allegations set forth in Paragraph 16 of the Notice of Opposition.

19. Applicant expressly denies the allegations set forth in Paragraph 19 of the Notice of Opposition.

20. Applicant expressly denies the allegations set forth in Paragraph 20 of the Notice of Opposition.

21. Applicant expressly denies the allegations set forth in Paragraph 21 of the Notice of Opposition.

22. Applicant expressly denies the allegations set forth in Paragraph 22 of the Notice of Opposition including those contained in subparagraphs (a) through (e).

23. Applicant expressly denies the allegations set forth in Paragraph 23 of the Notice of Opposition.

24. Applicant lacks sufficient knowledge to confirm or deny the allegations set forth in Paragraph 24 of the Notice of Opposition but if an Answer is deemed necessary, then the allegation is admitted on information and belief.

25. Applicant lacks sufficient knowledge to confirm or deny the allegations set forth in Paragraph 25 of the Notice of Opposition but if an Answer is deemed necessary, then the allegation is admitted on information and belief.

SECOND DEFENSE

A. The purposes of trademark protection are to protect the public's expectation regarding the source and quality of goods." *Sony Corp. of America v. Universal City Studios*, 464 U.S. 417, 429 (1984). However, Opposer markets its trademark so as to eliminate any connection between non-stick goods that contain PTFE and the TEFLON® trademark. Specifically, Opposer specifically forbids purchasers of Opposer's products from identifying such them as Opposer's products without first purchasing Opposer's permission to do so.

Opposer's "trademark disclaimer" published on its website, reads as follows:

Teflon® is a registered trademark of DuPont for our brand of fluoropolymer resins. The Teflon® brand name is licensed by DuPont in association with approved applications. Without a trademark license, customers may not identify their product with the Teflon® brand name. Unlicensed customers may refer to the DuPont product offering with only the DuPont product code number and product identifier name or descriptor as DuPont sells its product offerings. There are no fair use rights to use the Teflon® trademark by buying from DuPont, a DuPont customer or a distributor without a trademark license from DuPont.

See Opposer's website, http://www2.dupont.com/Teflon_Industrial/en_US/sales_support/licensed.html.

Common sense suggests that to charge a customer in order to allow the customer to state that the TEFLON® product that it has purchased is a TEFLON® product is to discourage the

customer from contributing to “TEFLON© awareness” among consumers. By way of example, an internet search for a “TEFLON© pan” may produce a plethora of “non-stick” cookware but no indication that PTFE has been used in the manufacture of such cookware. Opposer’s claim that the grant of Applicant’s application will dilute its image in the minds of consumers is, as such, utterly without merit. Opposer’s policy of essentially prohibiting the dissemination of the TEFLON© mark is at best hypocritical.

B. The courts have recognized that some marks can “transcend their identifying purpose” and “enter public discourse and become an integral part of our vocabulary.” When they do so they “assume a role outside the bounds of trademark law.” *Mattel, Inc. v. MCA Records, Inc.*, 296 F.3d 894, 900 (Fed. 9th Cir. 2002). Moreover, “[w]here a mark assumes such cultural significance, First Amendment protections come into play.” *Id.* In these situations, “the trademark owner does not have the right to control public discourse whenever the public imbues his mark with a meaning beyond its source-identifying function.” *Id.*

“Teflon” has now developed a cultural significance and has entered the public discourse as an integral part of our vocabulary in a way that transcends the identification of goods produced by Opposer, those containing the chemical PTFE. This, in no small part, is the result of Opposer’s trademark disclaimer, *infra*, as evidenced by the internet search for a TEFLON© pan and the resulting display of numerous brands and kinds of “non-stick” cookware.

By way of further example of “Teflon” as a living component of the English language used as an adjective that describes someone or something as “non-stick”:

In 1983, U.S. Representative Pat Schroeder, speak on the House floor, famously stated that President Ronald Reagan “has been perfecting the Teflon-coated presidency. He sees to it that nothing sticks to him.” In the wake of Representative Schroeder’s statements, Ronald Reagan

came to be known as the “Teflon President.” As of August 12, 2013, the phrase “Teflon President” returns 31,000 results on google.com.

The infamous crime boss John Gotti came to be known as “The Teflon Don” due to successful avoidance of prosecution for a significant period of time. The phrase “Teflon Don” returns 667,000 results on google.com.

Study of the nickname “Teflon” in the context of popular perception, shows that it has been applied to a wide variety of public figures. Wikipedia.org has recorded at least 16 of these different usages from around the world. (See Appendix A, Wikipedia Article “Teflon (nickname)” retrieved August 12, 2013). Google Dictionary defines “Teflon” as an “adjective” meaning “Able to withstand criticism or attack with no apparent effect.” (See Appendix B, Google definition result retrieved August 12, 2013)

As evidenced above and with the help of Opposer’s prohibiting its customers from displaying or otherwise disseminating the name TEFLON®, the word “Teflon” has now become genericised within the meaning of applicable law. No longer does “Teflon” refer to the specific PTFE compound manufactured by Opposer. Rather, “Teflon” has become exclusively adjectival, a synonym for “non-stick.”

THIRD DEFENSE

The Teflon President and the Teflon Don having preceded Applicant’s adoption of his stage name by many years, it is obvious “Teflon” had long been genericised. In addition, the broader cultural meaning attached to the word “Teflon,” that is, its establishment in the English language as a synonym for “non-stick,” long predated Applicant’s adoption of the word “Teflon” as part of his stage name. Simply stated, as of 2006, the year that the stage name “Teflon Don” was born, TEFLON® was no longer a strong mark as Opposer claims.

Opposer has not used the mark Teflon in connection with digital downloadable music or live music performance. TEFLON®, as described by Opposer throughout its Notice of Opposition, does not exist “in an area where it has no established trade, and hence no reputation and no good will.” *Natural Footwear Limited v. Hart, Sharefner & Marx, et al.*, 225 U.S.P.Q. 1104, 760 F.2d 1383, 1394 (Fed. 3rd Cir. 1985). As such, and as a matter of law, it is not entitled to protection as claimed by Opposer in this cause.

WHEREFORE, Applicant requests that the opposition by E.I. Du Pont de Nemours and Company be denied, and that the registration of Application Serial No. 76/709,934 be sustained.

Dated: August 12, 2013

Respectfully submitted,

/Samuel Rodriguez III/

Samuel Rodriguez, III (TN License #27880)

/Marvin Adams III/

Marvin Adams, III (TN License #30056)

/Samuel Muldavin/

Samuel Mudavin (TN License #13498)

Attorneys for the Applicant Donald Askew
Rodriguez Adams, LLC
8 South Third Street, Suite 500
Memphis, TN 38103
Telephone: (901) 526-0026
Facsimile: (901) 523-0975

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this **ANSWER TO NOTICE OF OPPOSITION** is being filed electronically to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on August 12, 2013.

/Samuel Rodriguez III/
Samuel Rodriguez III

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** has been served on Opposer by depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

William H. Brewster
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

/Samuel Rodriguez III/
Samuel Rodriguez III

Teflon (nickname)

From Wikipedia, the free encyclopedia

Teflon is a nickname given to persons, particularly in politics, to whom criticism does not seem to stick. The term comes from Teflon, the brand name by DuPont of a "non-stick" chemical used on cookware.

Uses

- The nickname "Teflon" was first used in reference to Ronald Reagan, who would become known as "**the Teflon President**".^[1] It was coined by former US Congresswoman Patricia Schroeder while cooking eggs in a Teflon pan as she reflected on how scandals surrounding his Presidency seemed to have no effect on his individual popularity with the public.^[2] Succeeding US politicians have also been given the nickname "Teflon," notably Bill Clinton.
- It was applied to mafia boss John Gotti, called **The Teflon Don**, who managed to escape being charged or convicted of crimes for over a decade, despite being the very public leader of a New York crime family.^[3]
- Former British Prime Minister Tony Blair was often referred to in the press as **Teflon Tony**.^[4]
- Ben Caspit, a reporter for the Israeli daily newspaper *Maariv*, once said that then Israeli prime minister Ariel Sharon "drags around a paltry list of achievements, but the failures don't stick to him. The father of the nation, the ultimate Teflon, is sailing calmly toward a second term. Who would have believed it?"^[5]
- Ralph Klein, long-time premier of the Canadian province of Alberta, was often referred to as a "Teflon" Premier.^[6]
- Irish Taoiseach Bertie Ahern (known as the **Teflon Taoiseach**) as scandal after scandal failed to have any lasting effect on him,^[7] until he was forced to resign in 2008.
- Teflon Johnny** has been coined to describe Prime Minister John Howard. Other Australian public figures that have been called "teflon coated" include Queensland Premier, Sir Johannes "Joh" Bjelke-Petersen and Prime Minister, Paul Keating.
- Russian President and later Prime Minister Vladimir Putin has been referred to as a "Teflon leader", although the 2008 Russian financial crisis had some effect on his image among the public.^[8]
- Spanish Formula One racing driver and double World Champion Fernando Alonso earned the nickname **Teflonso** following his exoneration from involvement in the Renault F1 Crashgate controversy.
- Ma Ying-jeou, President of the Republic of China, has also been widely described with this metaphor as a person on which nothing seems to stick, and criticisms, scandals and mess-ups were easily and frequently shrugged off. Although the trademark "Teflon" is generally not used among the Chinese-speaking population to describe the product as a whole so it's not used to describe Ma either, people do describe Ma using the nickname that the society actually uses to describe Teflon-enhanced-cookware - a "non-stick pan" ("bu zhan guo").
- TV bloggers appropriated the nickname "**Teflon Tim**" for *American Idol* contestant Tim Urban, who appeared on the show's ninth season and repeatedly survived elimination votes despite receiving stinging criticism from the judges.
- Teflon Charlie is a term used in ICT Enterprise Architecture to indicate a person to whom no task, action or responsibility can be made to stick. Teflon Charlies are often found at the upper tiers of Enterprise Architecture.
- In leaked US diplomatic cables it was revealed that German chancellor Angela Merkel is called **Angela 'Teflon' Merkel** by the staff of the American embassy in Berlin because criticism just bounces off her.^[9]
- French journalist Franz-Olivier Giesbert once compared presidential candidate François Hollande to a **Teflon pan** following an interview given on TV programme *Des paroles et des actes*.^[9]
- Yaniv Katan, captain of Maccabi Haifa F.C., was given this nickname as an insult by MHFC forum member "Mourinho".

References

- ↑ Schroeder, Patricia (June 6, 2004). "Nothing stuck to 'Teflon' president" (http://www.usatoday.com/news/opinion/editorials/2004-06-06-schroeder_x.htm). *USA Today*. Retrieved 18 February 2012.
- ↑ Thomas, Evan; Christopher Ogden, Sam Allis (June 18, 1984). "Tackling the Teflon President" (<http://www.time.com/time/magazine/article/0,9171,951169,00>) *Time*. Retrieved 5 October 2010.
- ↑ "'Teflon Don' jailed for life." (http://news.bbc.co.uk/onthisday/hi/dates/stories/june/23/newsid_25) BBC. 1992-06-23. Retrieved 2007-09-25. "Judge Leo Glasser's sentencing brought to a close the long quest to convict the man nicknamed the "Teflon Don"."
- ↑ Riddell, Peter (November 10, 2005). "The collapse of Teflon Tony." (http://www.timesonline.co.uk/tol/comment/columnists/peter_ridd) London: The Times. Retrieved 2007-09-25. "Yesterday's defeat in the Commons is a serious blow for Labour's credibility as a governing party."
- ↑ "Sharon Beats Netanyahu in Likud Primary" (<http://www.foxnews.com/story/0,2933,71685,00.html>). *Fox News*. 2002-11-28.
- ↑ "Bush, Kerry (and Ralph Klein) on Latin America: The bi-partisan offensive against Cuba, Venezuela." (http://www.sevenoaksmag.com/features/13_latin_america.1) Seven Oaks. Retrieved 2007-09-25. "It turns out Klein recently submitted a paper on Chilean history, as part of a communications course he's taking at Athabasca University. It also turns out that large portions of the essay are copied from articles on the internet, without proper citation. The plagiarism may or may not hurt Klein's popularity, given the Teflon Conservative's long record of debauchery, including a drunken night of poor-bashing at an Edmonton homeless shelter."
- ↑ Patterson, Henry (2006-10-01). "Teflon Taoiseach's brilliant career loses its well-polished shine." (<http://politics.guardian.co.uk/northernirelandassembly/comment>) London: New York Times. Retrieved 2007-09-25. "So why has the so-called Teflon Taoiseach, who was relatively untouched by the disgrace of his former close political allies, Charles Haughey and Ray Burke, been left looking so vulnerable?"
- ↑ "Putin's Teflon Image Takes Hit" (<http://www.moscowtimes.ru/article/600/42/373358.htm>) The Moscow Times. December 23, 2008. Retrieved 2008-12-23.
- ↑ "US-Depeschen über Deutschland: Im Netz der Denunzianten" (<http://www.spiegel.de/politik/ausland/0,1518,731601,00>) Der Spiegel. 28 November 2010. Retrieved 29 November 2010.

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definition teflon

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tef·lon

/ˈteflən/

Adjective

Able to withstand criticism or attack with no apparent effect: "a crime boss known as the Teflon Don because of his many acquittals".

More info - Wikipedia - Dictionary.com - Answers.com - Merriam-Webster

[Teflon - definition of Teflon by the Free Online Dictionary, Thesauru...](#)
[www.thefreedictionary.com/Teflon](#)

A trademark used for a waxy, opaque material, polytetrafluoroethylene, employed as a coating on cooking utensils and in industrial applications to prevent ...

Teflon in the Medical dictionary - Teflon - Teflon shakes - Teflon flu

[Urban Dictionary: teflon](#)

[www.urbandictionary.com/define.php?term=teflon](#)

Teflon is solid with an extremely low coefficient of friction. It is commonly used as a nonstick coating for pans. There are many misconceptions ab...

[Teflon | Define Teflon at Dictionary.com](#)

[dictionary.reference.com/browse/teflon](#)

Trademark. a fluorocarbon polymer with slippery, nonsticking properties; polytetrafluoroethylene. adjective. 2. characterized by imperviousness to blame or ...

[Teflon - Definition and More from the Free Merriam-Webster Dictionary](#)

[www.merriam-webster.com/dictionary/Teflon](#)

—used for synthetic fluorine-containing resins used especially for molding articles and for nonstick coatings. See [Teflon defined](#) for English-language learners ».

[Teflon: definition of Teflon in Oxford dictionary - American English \(...\)](#)

[oxforddictionaries.com/us/definition/american_english/Teflon](#)

Definition of Teflon in American English in Oxford dictionary (US). Meaning, pronunciation and example sentences. English to English reference content.

[Teflon: Definition from Answers.com](#)

[www.answers.com](#) › Library › Literature & Language › Dictionary

Teflon A trademark used for a waxy, opaque material, polytetrafluoroethylene, employed as a coating on cooking utensils and in industrial applications.

[Definition of Teflon | Collins English Dictionary](#)

[www.collinsdictionary.com](#) › English Dictionary

Ten thousand mourners turned out to see the so-called Teflon Don laid to rest on a windswept hillside in a New York Catholic cemetery. Sun, News of the World ...

[Polytetrafluoroethylene - Wikipedia, the free encyclopedia](#)

[en.wikipedia.org/wiki/Polytetrafluoroethylene](#)

Polytetrafluoroethylene (PTFE) is a synthetic fluoropolymer of tetrafluoroethylene that has numerous applications. The best known brand name of PTFE is Teflon ...

[Teflon noun - definition in the American English Dictionary ...](#)

[dictionary.cambridge.org/us/dictionary/american-english/teflon](#)

Teflon noun - definition, audio pronunciation and more for Teflon noun: a chemically-produced substance that is put on the inside of cooking pans to keep food ...

[Teflon - Definition of Teflon - YourDictionary](#)

[www.yourdictionary.com](#) › Dictionary Definitions

A trademark used for a waxy, opaque material, polytetrafluoroethylene, employed as a coating on cooking utensils and in industrial applications to prevent ...

Polytetrafluoroethyle

Chemical Compound

Polytetrafluoroethylene is a synthetic fluoropoly that has numerous applications. Wikipedia

Melting point: 520.3°F (326.8°C)

Formula: (C2F4)_n

Density: 2.20 g/cm³

IUPAC ID: poly(1,1,2,2-tetrafluoroethylene)